

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.107 OF 2016

Sachin Dilip Pandit	 Applicant
Vs.	
State of Maharashtra & Anr.	 Respondents

Mr. Indrajeet P. Kulkarni with Ms Shilpa S. Desai
for the Applicant.
Ms M.H. Mhatre, APP, for the Respondent-State.
Ms Indrayani M. Koparkar with Ms Kirti Godbole
for Respondent No.2.

CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.

DATE : APRIL 07, 2017

P.C:

1. This criminal application is filed to seek quashing of
FIR No.138 of 2015, registered at Navghar Police Station,
Mumbai, on 25-6-2015.

2. The offences alleged are punishable under Sections
326 and 34 of the IPC.

3. Mr. Kulkarni, appearing in support of this application, would contend that this a pure property dispute. The parties are locked in litigation in a Civil Court, on the own showing of the complainant, for last two decades. It is a fall out of that dispute that the complainant has now, in order to pressurise the applicant and that branch of the Pandit family, registered this FIR. The incident is highly exaggerated and the foundation for the same is but a civil dispute and with regard to the portion of the property, more particularly described by the complainant. Further, if there was allegedly an assault by an iron rod, there are cross FIRs, the police has recorded the complaint filed by one Mrs. Godbole and has proceeded against the applicant in the subject FIR. Pursuant to the registration of this FIR, from 2015 till date no notice was issued to the applicant. In such circumstances, in a property dispute, the subject FIR being registered is nothing but an attempt to pressurise the applicant in succumbing to the demand of the complainant. Such criminal prosecution is therefore an abuse of the process of the Court.

4. Upon hearing Mr. Kulkarni at some length, we are unable to agree with him. We have perused the subject FIR. We have perused, particularly the statement recorded of the complainant. *Prima facie* that discloses commission of an offence. It may be that there is a property or civil dispute pending in a competent Civil Court. However, the incident, as narrated by the complainant, is that the applicant entered the premises, there was initially a heated exchange but later on there was an incident of assault. The complainant has specifically named the applicant. It is in these circumstances that we are unable to agree with Mr. Kulkarni that these are pressurising tactics or that the criminal prosecution is an abuse of the process of the Court. A *prima facie* case is disclosed and upon reading the statement as a whole. Similarly, if the investigations are going on, then, the applicant cannot complain that nothing has been done pursuant to the subject FIR being registered. We do not think that in the facts and circumstances of this case even this ground is enough to quash the prosecution.

5. As a result of the above discussion and finding that this application is entirely misconceived, we proceed to dismiss it.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)